

JAN 24 2013

A BILL FOR AN ACT

RELATING TO MORTGAGE LOAN ORIGINATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 412:9-501, Hawaii Revised Statutes,
2 is amended to read as follows:

3 " ~~[+] §412:9-501 [+] Registration of nondepository~~
4 ~~financial services loan companies with [Nationwide Mortgage~~
5 ~~Licensing System.] NMLS.~~ (a) A nondepository financial
6 services loan company licensed under this chapter is not a
7 mortgage loan originator company as defined in section 454F-1.

8 (b) A nondepository financial services loan company
9 shall register with ~~[the Nationwide Mortgage Licensing System]~~
10 NMLS if any employee of the nondepository financial services
11 loan company acts as a mortgage loan originator as defined in
12 section 454F-1 or if the nondepository financial services loan
13 company uses the services of an exclusive independent
14 contractor mortgage loan originator, or loan processor or
15 underwriter, as defined in chapter 454F.

1 (c) This section does not exempt an employee of a
2 nondepository financial services loan company who originates
3 mortgage loans, or an independent contractor providing
4 mortgage loan originating, processing, or underwriting
5 services to a nondepository financial services loan company,
6 from licensure under chapter 454F."

7 SECTION 2. Section 454F-1, Hawaii Revised Statutes, is
8 amended as follows:

9 (1) By adding four new definitions to be appropriately
10 inserted and to read as follows:

11 "Loan modification" means a temporary or permanent
12 change to the terms of a borrower's existing loan agreement,
13 mutually agreed to between a borrower and a lender.

14 "Mortgage call report" means a single report of condition
15 that each licensee may be required to submit to NMLS.

16 "NMLS", means a mortgage licensing system developed and
17 maintained by the Conference of State Bank Supervisors and the
18 American Association of Residential Mortgage Regulators for
19 the state licensing and registration of state-licensed loan
20 originators and other financial services providers, or any
21 system provided by the Consumer Financial Protection Bureau.

22 "Principal place of business" means a mortgage loan
23 originator company's main office location in this State that

1 is separate from a branch office unless the branch office is
2 specified as the principal place of business by a mortgage
3 loan originator company headquartered out-of-state and
4 identified by any means to consumers as a location at which
5 the licensee holds itself out as a mortgage loan originator
6 company."

7 (2) By amending the definition of "branch manager" to
8 read as follows:

9 ""Branch manager" means an individual who is designated
10 and employed by a mortgage loan originator company to be
11 responsible for the activities in the conduct of business of
12 the licensed mortgage loan originator company's branch
13 office[-] or principal place of business, in conducting the
14 business of that mortgage loan originator company's branch
15 office[-] or principal place of business."

16 (3) By amending the definition of "branch office" to
17 read as follows:

18 ""Branch office" means any location, separate from the
19 principal place of business of the mortgage loan originator
20 company that is identified by any means to the public or
21 customers as a location at which the licensee holds itself out
22 as a mortgage loan originator company. For mortgage loan

1 originator companies headquartered out-of-state, a branch
2 office may be its principal place of business."

3 (4) By amending the definition of "exempt registered
4 mortgage loan originator" to read as follows:

5 ""Exempt registered mortgage loan originator" means any
6 individual who:

7 (1) Meets the definition of mortgage loan originator and
8 is an employee of:

9 (A) An insured depository institution;

10 [~~(B) A subsidiary that is:~~

11 ~~(i) Owned and controlled by an insured~~
12 ~~depository institution; and~~

13 ~~(ii) Regulated by a federal banking agency,] or~~

14 [~~(C)] (B) An institution regulated by the Farm
15 Credit Administration; and~~

16 (2) Is registered with, and maintains a unique
17 identifier through, [~~the Nationwide Mortgage~~
18 ~~Licensing System]~~ NMLS but is not required to be
19 licensed under this chapter."

20 (5) By amending the definition of "licensee" to read as
21 follows:

22 ""Licensee" means a mortgage loan originator, a mortgage
23 loan originator company, a mortgage servicer company, unless

1 exempt under chapter 454M, or a person who is [~~required to be~~]
2 licensed under this chapter. Licensee does not include an
3 exempt registered mortgage loan originator, or exempt
4 sponsoring mortgage loan originator company or nonprofit
5 organization as defined by this section."

6 (6) By amending the definition of "mortgage loan
7 originator" to read as follows:

8 "Mortgage loan originator":

9 (1) Means an individual who for compensation or gain or
10 in the expectation of compensation or gain:

11 (A) Takes a residential mortgage loan application;

12 or

13 (B) Offers or negotiates terms of a residential
14 mortgage loan; [~~and~~]

15 (2) Means any individual who offers or negotiates the
16 terms of a residential mortgage loan secured by a
17 dwelling that served as the individual's residence,
18 including a vacation home, or inherited property
19 that served as the deceased's dwelling, provided
20 that the individual does not act as a mortgage loan
21 originator or provide financing for such sales more
22 than three times in a calendar year;

1 ~~[(2)]~~(3) Includes an independent contractor as defined
2 in this section."

3 (7) By amending the definition of "mortgage servicer
4 company" to read as follows:

5 "'Mortgage servicer company" means a mortgage servicer
6 company licensed under chapter 454M[-] that employs one or
7 more individuals who conduct mortgage loan origination
8 activity."

9 (8) By amending the definition of "sponsor" to read as
10 follows:

11 "'Sponsor" means to:

12 (1) Create a relationship through [~~the Nationwide~~
13 ~~Mortgage Licensing System~~] NMLS; and

14 (2) Appropriately supervise a mortgage loan originator's
15 activities."

16 (9) By repealing the definition of "Nationwide Mortgage
17 Licensing System" or "Nationwide Mortgage Licensing System and
18 Registry".

19 [~~"Nationwide Mortgage Licensing System" or "Nationwide~~
20 ~~Mortgage Licensing System and Registry"~~ means a mortgage
21 ~~licensing system developed and maintained by the Conference of~~
22 ~~State Bank Supervisors and the American Association of~~
23 ~~Residential Mortgage Regulators for the licensing and~~

1 ~~registration of mortgage loan originators, mortgage loan~~
2 ~~originator companies, exempt registered mortgage loan~~
3 ~~originators, and exempt registered mortgage loan originator~~
4 ~~companies as defined by this chapter."~~]

5 SECTION 3. Section 454F-1.5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~§454F-1.5 Registration with [Nationwide Mortgage~~
8 ~~Licensing System]~~ NMLS required. (a) All mortgage loan
9 originators, mortgage loan originator companies, exempt
10 sponsoring mortgage loan originator companies, nonprofit
11 organizations, mortgage servicer companies, and every other
12 person in this State that originates a residential mortgage
13 loan, unless exempt under section 454F-2, shall register with
14 ~~[the Nationwide Mortgage Licensing System.]~~ NMLS.

15 (b) Exempt registered mortgage loan originators, unless
16 exempt under section 454F-2, shall register and maintain a
17 unique identifier through ~~[the Nationwide Mortgage Licensing~~
18 ~~System,]~~ NMLS, but shall not be required to be licensed under
19 this chapter."

20 SECTION 4. Section 454F-1.6, Hawaii Revised Statutes, is
21 amended to read as follows:

22 "~~§454F-1.6 Presumption of control.~~ An individual is
23 presumed to control a mortgage loan originator company or a

1 mortgage servicer company if that individual is a director,
2 general partner, managing member, or executive officer who
3 directly or indirectly has the right to vote ten per cent or
4 more of a class of voting security or has the power to sell or
5 direct the sale of ten per cent or more of a class of voting
6 securities of that mortgage loan originator company[-] or
7 mortgage servicer company."

8 SECTION 5. Section 454F-1.7, Hawaii Revised Statutes, is
9 amended by amending its title to read as follows:

10 "§454F-1.7 Duties of a mortgage loan originator
11 company's qualified individual and branch manager."

12 SECTION 6. Section 454F-2.5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[+]§454F-2.5[+] Exempt sponsoring mortgage loan
15 originator company; registration. Any person exempt from the
16 licensing provisions of this chapter may register with [~~the~~
17 ~~Nationwide Mortgage Licensing System~~] NMLS for the purpose of
18 sponsoring a mortgage loan originator required to be licensed
19 by this chapter."

20 SECTION 7. Section 454F-3, Hawaii Revised Statutes, is
21 amended to read as follows:

22 "§454F-3 Requirement of licensure. (a) Effective
23 January 1, 2011, or such later date approved by the United

1 States Department of Housing and Urban Development pursuant to
2 the authority granted under Public Law 110-289, section
3 1508(e), 12 United States Code section 5107(e), a person,
4 unless specifically exempted from this chapter, shall not
5 engage in the business of a mortgage loan originator or
6 mortgage loan originator company with respect to any dwelling
7 located in this State without first obtaining and maintaining
8 annually, a license under this chapter. Each licensed
9 mortgage loan originator ~~[e]~~, mortgage loan originator
10 company, or mortgage servicer company shall register with and
11 maintain a valid unique identifier issued by ~~[the Nationwide~~
12 ~~Mortgage Licensing System,]~~ NMLS and shall submit to ~~[the~~
13 ~~Nationwide Mortgage Licensing System]~~ NMLS any reports that
14 shall be in a form and contain information as ~~[the Nationwide~~
15 ~~Mortgage Licensing System]~~ NMLS may require.

16 ~~[A mortgage broker or mortgage solicitor who holds a~~
17 ~~license under chapter 454 that is valid as of December 31,~~
18 ~~2010 and who creates a record and obtains a unique identifying~~
19 ~~number in the Nationwide Mortgage Licensing System by November~~
20 ~~30, 2010 shall be determined to be in compliance with the~~
21 ~~licensing provisions of this chapter until the commissioner~~
22 ~~makes a final determination on the issuance or denial of the~~
23 ~~individual's license.]~~

1 (b) An independent contractor shall not engage in the
2 activities of a loan processor or underwriter without a
3 license pursuant to section 454F-4. Each independent
4 contractor licensed as a mortgage loan originator shall obtain
5 and maintain a valid unique identifier issued by [~~the~~
6 ~~Nationwide Mortgage Licensing System.~~] NMLS. An independent
7 contractor who is not an exclusive agent of a mortgage loan
8 originator company, in addition to obtaining a license as a
9 mortgage loan originator, shall obtain a license as a mortgage
10 loan originator company.

11 (c) A loan processor or underwriter who does not
12 represent to the public, through advertising or other means of
13 communicating or providing information, including through
14 business cards, stationery, brochures, signs, rate lists, or
15 other promotional items, that the individual can or will
16 perform any of the activities of a mortgage loan originator,
17 who does not advertise that the individual can or will perform
18 any of the activities of a mortgage loan originator, and who
19 does not engage in the activities of a mortgage loan
20 originator shall not be required to be licensed under this
21 chapter.

1 [~~(d) Upon obtaining a licensing determination under this~~
2 ~~chapter, an applicant's license issued under chapter 454 shall~~
3 ~~automatically terminate.]~~

4 [~~(e)~~] (d) If this section or any provision of this
5 section conflicts at any time with any federal law, then the
6 federal law shall prevail and this section or the relevant
7 provisions of this section shall become ineffective and
8 invalid. The ineffectiveness or invalidity of this section or
9 any of its provisions shall not affect any other provisions or
10 applications of this chapter which shall be given effect
11 without the invalid provision or application, and to this end,
12 the provisions of this section are severable."

13 SECTION 8. Section 454F-4, Hawaii Revised Statutes is
14 amended to read as follows:

15 "**§454F-4 License and registration; application;**
16 **issuance.** (a) Applicants for a license shall apply in a form
17 as prescribed by [~~the Nationwide Mortgage Licensing System~~]
18 NMLS or by the commissioner.

19 (b) To fulfill the purposes of this chapter, the
20 commissioner [~~shall establish relationships~~] may enter into
21 agreements or contracts with [~~the Nationwide Mortgage~~
22 ~~Licensing System~~] NMLS or other entities [~~designated by the~~
23 ~~Nationwide Mortgage Licensing System~~] to use NMLS to collect

1 and maintain records and process transaction fees or other
2 fees related to licensees or other persons subject to this
3 chapter.

4 (c) For the purpose and the extent necessary to
5 participate in [~~the Nationwide Mortgage Licensing System,~~]
6 NMLS, the commissioner may waive or modify, in whole or in
7 part, by rule or order, any or all of the requirements of this
8 chapter and establish new requirements as reasonably necessary
9 to participate in [~~the Nationwide Mortgage Licensing System,~~]
10 NMLS.

11 (d) In connection with an application for a license
12 under this chapter, the applicant, at a minimum, shall furnish
13 to [~~the Nationwide Mortgage Licensing System,~~] NMLS information
14 concerning the applicant's identity, including:

15 (1) Fingerprints of the applicant [~~and,~~] or, if an
16 applicant is not an individual, each of the
17 applicant's control persons, executive officers,
18 directors, general partners, and managing members
19 for submission to the Federal Bureau of
20 Investigation and any governmental agency or entity
21 authorized to receive the fingerprints for a state,
22 national, and international criminal history
23 background check; and

1 (2) Personal history and experience of the applicant
2 ~~[and]~~ or, if an applicant is not an individual,
3 each of the applicant's control persons, executive
4 officers, directors, general partners, and managing
5 members in a form prescribed by ~~[the Nationwide~~
6 ~~Mortgage Licensing System]~~ NMLS including the
7 submission of authorization for ~~[the Nationwide~~
8 ~~Mortgage Licensing System]~~ NMLS and the commissioner
9 to obtain:

10 (A) An independent credit report obtained from a
11 consumer reporting agency described in section
12 603(p) of the Fair Credit Reporting Act, 15
13 United States Code 1681 et seq.; and

14 (B) Information related to any administrative,
15 civil, or criminal findings by any governmental
16 jurisdiction;

17 provided that the commissioner may use any information
18 obtained pursuant to this subsection or through ~~[the~~
19 ~~Nationwide Mortgage Licensing System]~~ NMLS to determine an
20 applicant's demonstrated financial responsibility, character,
21 and general fitness for licensure.

22 (e) The commissioner may use ~~[the Nationwide Mortgage~~
23 ~~Licensing System]~~ NMLS as an agent for requesting information

1 from and distributing information to the Department of Justice
2 or any governmental agency.

3 (f) The commissioner may use [~~the Nationwide Mortgage~~
4 ~~Licensing System~~] NMLS as an agent for requesting and
5 distributing information to and from any source directed by
6 the commissioner.

7 (g) An applicant for a license as a mortgage loan
8 originator company that is a person other than an individual
9 shall be registered with the business registration division of
10 the department of commerce and consumer affairs to do business
11 in this State before a license pursuant to this chapter shall
12 be granted."

13 SECTION 9. Section 454F-4.9, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) An application for licensure pursuant to this
16 chapter shall be considered abandoned if an applicant fails to
17 provide evidence of continued efforts to complete the
18 licensing application process for thirty days. The thirty-day
19 period shall begin on the last day of contact with the
20 division by the applicant. The commissioner may extend this
21 period for good cause. No refund of filing fees shall be
22 provided to an applicant for an abandoned application. The
23 commissioner shall not be required to act on any abandoned

1 application and is not required to retain abandoned
2 applications or supporting documents. The commissioner may
3 withdraw abandoned applications from [~~the Nationwide Mortgage~~
4 ~~Licensing System.~~] NMLS."

5 SECTION 10. Section 454F-6, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§454F-6 Pre-licensing and re-licensing; education of**
8 **mortgage loan originators.** (a) An applicant for licensure as
9 a mortgage loan originator shall complete at least twenty
10 hours of pre-licensing education approved in accordance with
11 subsection (b) that includes:

- 12 (1) Three hours of federal law and regulations[+] and
13 three hours of state law and rules;
14 (2) Three hours of ethics, that shall include
15 instruction on fraud, consumer protection, and fair
16 lending issues; and
17 (3) Two hours of training related to lending standards
18 for the nontraditional mortgage product marketplace.

19 Upon completion of the pre-licensing education, an individual
20 has up to twelve months to submit an application for licensure
21 as a mortgage loan originator. An individual who submits an
22 application after the twelve months have expired will be
23 required to repeat the pre-licensing education requirements.

S.B. NO. 1069

1 (b) Pre-licensing education courses shall be reviewed
2 and approved by [~~the Nationwide Mortgage Licensing System~~]
3 NMLS based upon reasonable standards. Review and approval of
4 a pre-licensing education course shall include review and
5 approval of the course provider.

6 (c) Nothing in this section shall prohibit the use of
7 any pre-licensing education course approved by [~~the Nationwide~~
8 ~~Mortgage Licensing System~~] NMLS that is provided by the
9 employer of the applicant, an entity that is affiliated with
10 the applicant by an agency contract, or any subsidiary or
11 affiliate of the employer or entity.

12 (d) Pre-licensing education may be offered either in a
13 classroom, online, or by any other means approved by [~~the~~
14 ~~Nationwide Mortgage Licensing System.~~] NMLS.

15 (e) The pre-licensing education requirements approved by
16 [~~the Nationwide Mortgage Licensing System~~] NMLS for any state
17 shall be accepted as credit towards completion of pre-
18 licensing education requirements in this State.

19 (f) A person previously licensed under this chapter and
20 applying to be licensed under this chapter shall prove to the
21 satisfaction of the commissioner that the person has completed
22 all of the continuing education requirements for the year in
23 which the license was last held."

1 SECTION 11. Section 454F-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§454F-7~~ **Testing of mortgage loan originators.** (a) To
4 meet the [~~passing of the~~] written test requirement in section
5 454F-5, an applicant for licensure as a mortgage loan
6 originator shall pass, in accordance with the standards
7 established under this section, a qualified written test
8 developed by [~~the Nationwide Mortgage Licensing System~~] NMLS
9 and administered by a test provider approved by [~~the~~
10 ~~Nationwide Mortgage Licensing System~~] NMLS based upon
11 reasonable standards.

12 (b) A written test shall not be treated as a qualified
13 written test for purposes of subsection (a) unless the test
14 adequately measures the applicant's knowledge and
15 comprehension in appropriate subject areas, including:

- 16 (1) Ethics;
- 17 (2) Federal law and regulations pertaining to mortgage
18 origination;
- 19 (3) State law and rules pertaining to mortgage
20 origination; and
- 21 (4) Federal and state law, rules, and regulations,
22 including instruction on fraud, consumer protection,

1 the nontraditional mortgage marketplace, and fair
2 lending issues.

3 (c) Nothing in this section shall prohibit a test
4 provider approved by [~~the Nationwide Mortgage Licensing~~
5 ~~System~~] NMLS from providing a test at the location of the
6 employer of the applicant, the location of any subsidiary or
7 affiliate of the employer of the applicant, or the location of
8 any entity with which the applicant holds an exclusive
9 arrangement to conduct the business of a mortgage loan
10 originator.

11 (d) An individual shall have passed a qualified written
12 test if the individual achieves a test score of seventy-five
13 per cent of the correct answers to questions or better. An
14 individual may [~~retake~~] take a test three [~~consecutive~~] times
15 with each [~~consecutive taking~~] retest occurring at least
16 thirty days after the preceding test. After failing three
17 consecutive tests, an individual shall wait at least six
18 months before taking the test again. A licensed mortgage loan
19 originator who fails to maintain a valid license for a period
20 of five years or longer not taking into account any time
21 during which the individual is an exempt registered mortgage
22 loan originator, shall retake the test."

1 SECTION 12. Section 454F-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§454F-8 Standards for license renewal. (a) The
4 minimum standards for license renewal for mortgage loan
5 originators shall include the following:

6 (1) The mortgage loan originator continues to meet the
7 minimum standards for licensure under section 454F-
8 5;

9 (2) The mortgage loan originator has satisfied the
10 annual continuing education requirements in section
11 454F-9[+] prior to requesting renewal; and

12 (3) The mortgage loan originator has paid all required
13 fees for renewal of the license.

14 (b) The minimum standards for license renewal for
15 mortgage loan originator companies shall include the
16 following:

17 (1) The mortgage loan originator company continues to
18 meet the minimum standards for licensure established
19 pursuant to section 454F-5;

20 (2) The mortgage loan originator company's qualified
21 individual and every branch manager have satisfied
22 the minimum standards for license renewal; and

1 (3) The mortgage loan originator company has paid all
2 required fees for renewal of the license.

3 (c) The minimum standards for license renewal for a
4 mortgage servicer company shall include the following:

5 (1) The mortgage servicer company continues to meet the
6 minimum standards for licensure established pursuant
7 to section 454F-5; and

8 (2) The mortgage servicer company has paid all required
9 fees for renewal of the license.

10 ~~[(e)]~~ (d) The license of a mortgage loan originator
11 ~~[or]~~, mortgage loan originator company, or mortgage servicer
12 company that fails to satisfy the minimum standards for
13 license renewal shall expire. The commissioner may adopt
14 procedures for the reinstatement of expired licenses
15 consistent with section 454F-8.5 and the standards established
16 by ~~[the Nationwide Mortgage Licensing System.]~~ NMLS."

17 SECTION 13. Section 454F-9, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§454F-9 Continuing education; mortgage loan**
20 **originators.** (a) Each year, a licensed mortgage loan
21 originator shall complete at least eight hours of education
22 approved in accordance with subsection (b) that shall include
23 ~~[at least]~~:"

- 1 (1) Three hours of federal law and regulations;
- 2 (2) Two hours of ethics that shall include instruction
- 3 on fraud, consumer protection, and fair lending
- 4 issues;
- 5 (3) Two hours of training related to lending standards
- 6 for the nontraditional mortgage product
- 7 marketplace ~~[]~~; and
- 8 (4) One hour of state law and rules.

9 (b) For purposes of subsection (a), continuing education
10 courses shall be reviewed and approved by ~~[the Nationwide~~
11 ~~Mortgage Licensing System]~~ NMLS based upon reasonable
12 standards. Review and approval of a continuing education
13 course shall include review and approval of the course
14 provider.

15 (c) Nothing in this section shall prohibit the use of
16 any education course that is approved by ~~[the Nationwide~~
17 ~~Mortgage Licensing System]~~ NMLS and provided by the employer
18 of the mortgage loan originator, an entity that is affiliated
19 with the mortgage loan originator by an agency contract, or
20 any subsidiary or affiliate of the employer or entity.

21 (d) Continuing education may be offered either in a
22 classroom, online, or by any other means approved by ~~[the~~
23 ~~Nationwide Mortgage Licensing System.]~~ NMLS.

1 (e) A licensed mortgage loan originator:

2 (1) May only receive credit for a continuing education
3 course in the year in which the course is taken,
4 except for continuing education credits received
5 pursuant to this chapter; and

6 (2) May not take the same approved course in the same or
7 successive years to meet the annual requirements for
8 continuing education; provided that the term
9 "successive years" shall mean the two years
10 following the year in which a mortgage loan
11 originator takes an approved course.

12 (f) A licensed mortgage loan originator who is an
13 approved instructor of an approved continuing education course
14 may receive continuing education credit for the course taught
15 at the rate of two hours credit for every one hour taught.

16 (g) Continuing education courses as described in
17 subsection (a) and approved by [~~the Nationwide Mortgage~~
18 ~~Licensing System~~] NMLS for any state, that are successfully
19 completed by a licensed mortgage loan originator, shall be
20 accepted as credit towards completion of continuing education
21 requirements in this State.

22 (h) A licensed mortgage loan originator who subsequently
23 becomes unlicensed shall complete the continuing education

1 requirements for the last year in which the license was held
2 prior to issuance of a new or renewed license.

3 (i) The license of a licensee meeting the requirements
4 of section 454F-8(a)(1) and (3) shall expire if the licensee
5 fails to meet the minimum requirements for continuing
6 education. Reinstatement of the expired license shall be
7 allowed as provided for in section 454F-8.5."

8 SECTION 14. Section 454F-10, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~§454F-10 Authority to require license.~~ In addition to
11 any other duties imposed upon the commissioner, the
12 commissioner shall require mortgage loan originators [~~and~~],
13 mortgage loan originator companies, and mortgage servicer
14 companies to be licensed and registered through [~~the~~
15 ~~Nationwide Mortgage Licensing System.~~] NMLS. The commissioner
16 is authorized to participate in [~~the Nationwide Mortgage~~
17 ~~Licensing System.~~] NMLS. The commissioner may establish by
18 rule pursuant to chapter 91, requirements for mortgage loan
19 originators [~~and~~], mortgage loan originator companies, and
20 mortgage servicer companies including:

21 (1) Background checks of:

22 (A) Criminal history through fingerprint or other
23 databases;

- 1 (B) Civil or administrative records;
- 2 (C) Credit history; and
- 3 (D) Any other source deemed necessary by [~~the~~
- 4 ~~Nationwide Mortgage Licensing System;~~] NMLS;
- 5 (2) Fees to apply for or renew licenses through [~~the~~
- 6 ~~Nationwide Mortgage Licensing System;~~] NMLS;
- 7 (3) The setting or resetting as necessary of license
- 8 renewal and reporting dates;
- 9 (4) Requirements for amending or surrendering a license;
- 10 and
- 11 (5) Any other activity the commissioner deems necessary
- 12 to participate in [~~the Nationwide Mortgage Licensing~~
- 13 ~~System.~~] NMLS."

14 SECTION 15. Section 454F-10.5, Hawaii Revised Statutes,

15 is amended to read as follows:

16 "**§454F-10.5 Authorized places of business; designation**

17 **of qualified individuals and branch managers; branch offices;**

18 **out-of-state headquarters; relocation.** (a) Every mortgage

19 loan originator company licensed under this chapter shall have

20 and maintain a principal place of business in the State and

21 shall designate a qualified individual who is licensed as a

22 mortgage loan originator pursuant to this chapter to oversee

23 mortgage loan originators employed or contracted by the

1 company. If the qualified individual is physically located at
2 a branch office, the qualified individual may also be
3 designated as the branch manager.

4 (b) A mortgage loan originator company shall not
5 maintain any branch offices in the State in addition to its
6 principal place of business without the prior written approval
7 of the commissioner. An application to establish a branch
8 office shall be submitted through NMLS with a nonrefundable
9 application fee as required by section 454F-22. A mortgage
10 loan originator company [~~that establishes one or more branch~~
11 ~~offices pursuant to this subsection~~] shall designate a branch
12 manager for each branch office [~~located at~~] who is physically
13 present in the branch office to oversee that branch office.
14 Every branch manager shall be licensed as a mortgage loan
15 originator pursuant to this chapter.

16 (c) A mortgage loan originator company shall not
17 relocate any office in this State without the prior written
18 approval of the commissioner. An application to relocate an
19 office shall be submitted to the commissioner at least thirty
20 days prior to relocating and shall set forth the reasons for
21 the relocation, the street address of the proposed relocated
22 office, and other information that may be required by the
23 commissioner. An application to relocate an office pursuant

1 to this subsection shall be submitted with a nonrefundable fee
2 as required by section 454F-22.

3 (d) A mortgage loan originator company shall give the
4 commissioner notice of its intent to close a branch office at
5 least thirty days prior to the closing. The notice shall:

6 (1) State the intended date of closing; and

7 (2) Specify the reasons for the closing.

8 (e) A mortgage loan originator company that maintains
9 its headquarters outside of the State shall:

10 (1) Designate an office in this State as its principal
11 place of business in this State;

12 (2) Apply for and obtain approval from the commissioner
13 to designate its principal place of business in this
14 State as a branch office pursuant to this section;
15 and

16 (3) Designate a qualified individual who shall hold a
17 license as a mortgage loan originator pursuant to
18 this chapter; provided that the qualified individual
19 may be the same person designated as the branch
20 manager.

21 (f) A mortgage loan originator company that maintains
22 its headquarters in this State shall designate a qualified
23 individual who is physically present in the principal place of

1 business office as its branch manager to oversee and manage
2 that principal place of business office."

3 SECTION 16. Section 454F-11, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§454F-11 [~~Nationwide Mortgage Licensing System~~] NMLS
6 **registry information; challenge process.** The commissioner
7 shall establish a process by rule pursuant to chapter 91
8 whereby a licensee may challenge information entered into [~~the~~
9 ~~Nationwide Mortgage Licensing System~~] NMLS by the
10 commissioner."

11 SECTION 17. Section 454F-14, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[~~§~~§454F-14[~~§~~] **Confidentiality.** (a) Except as
14 otherwise provided in Public Law 110-289, section 1512, the
15 requirements under any federal or state law regarding the
16 privacy or confidentiality of any information or material
17 provided to [~~the Nationwide Mortgage Licensing System,~~] NMLS,
18 and any privilege arising under federal or state law,
19 including the rules of any federal or state court, with
20 respect to the information or material shall continue to apply
21 to the information or material after the information or
22 material has been disclosed to [~~the Nationwide Mortgage~~
23 ~~Licensing System,~~] NMLS. The information and material may be

1 shared with all state and federal regulatory officials with
2 mortgage industry oversight authority without the loss of
3 privilege or the loss of confidentiality protections provided
4 by federal or state law.

5 (b) For these purposes, the commissioner is authorized
6 to enter into agreements or sharing arrangements with other
7 governmental agencies, the Conference of State Bank
8 Supervisors, the American Association of Residential Mortgage
9 Regulators, or other associations representing governmental
10 agencies as established by rule or order of the commissioner.

11 (c) Information or material that is subject to a
12 privilege or confidentiality under subsection (a) shall not be
13 subject to:

14 (1) Disclosure under any federal or state law governing
15 the disclosure to the public of information held by
16 an officer or an agency of the federal government or
17 a state; or

18 (2) Subpoena or discovery, or admission into evidence,
19 in any private civil action or administrative
20 process, unless with respect to any privilege held
21 by [~~the Nationwide Mortgage Licensing System~~] NMLS
22 applicable to the information or material; provided
23 that the person to whom the information or material

1 pertains waives, in whole or in part, in the
2 discretion of such person, that privilege.

3 (d) Notwithstanding chapter 92F, the examination process
4 and related information and documents, including the reports
5 of examination, are confidential and are not subject to
6 discovery or disclosure in civil or criminal lawsuits.

7 (e) Notwithstanding any law to the contrary, the
8 disclosure of confidential supervisory information or any
9 information or material described in subsection (a) that is
10 inconsistent with subsection (a) shall be superseded by the
11 requirements of this section.

12 (f) This section shall not apply to information or
13 material relating to the employment history of, and publicly
14 adjudicated disciplinary and enforcement actions against,
15 mortgage loan originators that are included in [~~the Nationwide~~
16 ~~Mortgage Licensing System~~] NMLS for access by the public."

17 SECTION 18. Section 454F-15, Hawaii Revised Statutes, is
18 amended by amending subsection (i) to read as follows:

19 "(i) The commissioner may charge an examination or
20 investigation fee, payable to the division, based upon the
21 cost per hour per examiner for all licensees and persons
22 subject to this chapter examined or investigated by the
23 commissioner or the commissioner's staff. The hourly fee

1 shall be [~~\$40~~] \$60 or an amount as the commissioner shall
2 establish by rule pursuant to chapter 91. In addition to the
3 examination or investigation fee, the commissioner may charge
4 any person that is examined or investigated by the
5 commissioner or the commissioner's staff pursuant to this
6 section additional amounts for travel, per diem, mileage, and
7 other reasonable expenses incurred in connection with the
8 examination or investigation, payable to the division."

9 SECTION 19. Section 454F-16, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§454F-16 Mortgage call reports.** Each licensee, as may
12 be required by 12 United States Code sections 5101 to 5116,
13 shall submit quarterly to [~~the Nationwide Mortgage Licensing~~
14 ~~System~~] NMLS reports of condition, using the form entitled
15 "REPORT OF CONDITION", which shall be in the form and contain
16 the information as [~~the Nationwide Mortgage Licensing System~~]
17 NMLS may require."

18 SECTION 20. Section 454F-17, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§454F-17 Prohibited practices.** It shall be a violation
21 of this chapter for a licensee or person subject to this
22 chapter to:

- 1 (1) Directly or indirectly employ any scheme, device, or
2 artifice to defraud or mislead borrowers or lenders
3 or to defraud any person;
- 4 (2) Engage in any unfair or deceptive practice related
5 to mortgage loan origination activities toward any
6 person;
- 7 (3) Obtain property by fraud or misrepresentation;
- 8 (4) Solicit or enter into any contract with a borrower
9 that provides in substance that the person or
10 individual subject to this chapter may earn a fee or
11 commission through "best efforts" to obtain a loan
12 even though no loan is actually obtained for the
13 borrower;
- 14 (5) Solicit, advertise, or enter into a contract for
15 specific interest rates, points, or other financing
16 terms unless the terms are actually available at the
17 time of soliciting, advertising, or contracting;
- 18 (6) Conduct any business covered by this chapter without
19 holding a valid license as required under this
20 chapter, or assist or aid and abet any person in the
21 conduct of business under this chapter without a
22 valid license as required under this chapter;

- 1 (7) Fail to make disclosures as required by this chapter
2 and any other applicable state or federal law
3 including rules or regulations adopted pursuant to
4 state or federal law;
- 5 (8) Fail to comply with this chapter or any order or
6 rule issued or adopted under the authority of this
7 chapter, or fail to comply with any other state or
8 federal law, including the rules and regulations
9 adopted pursuant to state or federal law applicable
10 to any business authorized or conducted pursuant to
11 this chapter;
- 12 (9) Make, in any manner, any false or deceptive
13 statement or representation, including with regard
14 to the rates, points, or other financing terms or
15 conditions for a residential mortgage loan, or
16 engage in bait and switch advertising;
- 17 (10) Negligently or knowingly make any false statement or
18 provide any misleading information or knowingly and
19 wilfully make any omission of material fact in
20 connection with any information or reports filed
21 with a governmental agency or [~~the Nationwide~~
22 ~~Mortgage Licensing System,~~] NMLS, including an
23 application for a license under this chapter, or in

1 connection with any examination or investigation
2 conducted by the commissioner or another government
3 agency;

4 (11) Make any payment, threat, or promise, directly or
5 indirectly, to any person for the purposes of
6 influencing the independent judgment of the person
7 in connection with a residential mortgage loan, or
8 make any payment, threat, or promise, directly or
9 indirectly, to any appraiser of a property for the
10 purpose of influencing the independent judgment of
11 the appraiser with respect to the value of a
12 property;

13 (12) Cause or require a borrower to obtain property
14 insurance coverage in an amount that exceeds the
15 replacement cost of the improvements as established
16 by the property insurer;

17 (13) Fail to truthfully account for moneys belonging to a
18 party to a residential mortgage loan transaction;

19 (14) Deliver a misleading or deceptive communication or
20 advertisement, whether written, electronic, or oral,
21 when marketing or soliciting a residential mortgage
22 loan; provided that:

1 (A) A communication or advertisement that uses the
2 name or trademark of a financial institution as
3 defined in section 412:1-109 or its affiliates
4 or subsidiaries, or infers that the
5 communication or advertisement is from,
6 endorsed by, is related to, or is the
7 responsibility of the financial institution is
8 a misleading or deceptive communication;

9 (B) Advertising that a specific interest rate,
10 points, or financial terms are available when
11 the rates, points, or financial terms are not
12 actually available is a misleading or deceptive
13 communication;

14 (15) Fill in or complete any blank on a final residential
15 mortgage loan application that requests material
16 information including financial information without
17 adequate supporting documentation provided by the
18 borrower;

19 (16) Fill in or complete any blank on any mortgage or
20 note evidencing or securing the residential mortgage
21 loan which relates to the amount, interest rate,
22 term, or monthly payment of the residential mortgage
23 loan;

1 (17) Originate a residential mortgage loan based
2 primarily on the current market value of the
3 borrower's collateral rather than on the borrower's
4 ability to repay the loan according to its terms;
5 provided that the sale of the property is made to a
6 bona fide buyer; and provided further that this
7 paragraph shall not apply to a reverse mortgage as
8 defined under Title 12 Code of Federal Regulations
9 section 226.33;

10 (18) Advertise terms of a residential mortgage loan in
11 violation of section 226.16 or 226.24 of Regulation
12 Z of the Board of Governors of the Federal Reserve
13 System; or

14 (19) Encourage a borrower to misrepresent, inflate, or
15 fabricate the source or amount of a borrower's
16 actual income or assets in the application or
17 underwriting process for a residential mortgage
18 loan."

19 SECTION 21. Section 454F-20, Hawaii Revised Statutes, is
20 amended to read as follows:

21 " ~~[+] §454F-20 [-]~~ Report to ~~[Nationwide Mortgage Licensing~~
22 ~~System.]~~ NMLS. Notwithstanding any other law to the contrary,
23 the commissioner is required to regularly report violations of

1 this chapter, as well as enforcement actions and other
2 relevant information, to [~~the Nationwide Mortgage Licensing~~
3 ~~System~~] NMLS subject to the confidentiality provisions
4 contained in section 454F-14."

5 SECTION 22. Section 454F-22, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~§454F-22~~ Mortgage loan originator, mortgage loan
8 originator company, mortgage servicer company, and exempt
9 sponsoring mortgage loan originator company fees. (a) [A]
10 Except as provided in subsection (b), a mortgage loan
11 originator shall pay the following fees to obtain and maintain
12 a valid mortgage loan originator license:

- 13 (1) Initial application fee of [~~\$500,~~] \$600;
14 (2) Annual license renewal fee of [~~\$300,~~] \$350;
15 (3) Reinstatement fee of \$100;
16 (4) Late fee of \$25 per day; and
17 (5) Criminal background check fee of \$35, or of an
18 amount determined by the commissioner by rule
19 pursuant to chapter 91.

20 (b) A sole proprietor mortgage loan originator shall pay
21 the following fees to obtain and maintain a valid sole
22 proprietor mortgage loan originator license:

- 23 (1) Initial application fee of \$35;

- 1 (2) Annual license renewal fee of \$35;
- 2 (3) Reinstatement fee of \$100;
- 3 (4) Late fee of \$25 per day; and
- 4 (5) Criminal background check fee of \$35, or of an
- 5 amount determined by the commissioner by rule
- 6 pursuant to chapter 91.

7 [~~(b)~~] (c) A mortgage loan originator company shall pay
8 the following fees to maintain a valid mortgage loan
9 originator company license or branch license:

- 10 (1) Fees payable for a principal office of a mortgage
- 11 loan originator company:
 - 12 (A) Initial application fee of \$900;
 - 13 (B) Processing fee of \$35 for each control person;
 - 14 [~~(B)~~] (C) Annual license renewal fee of \$600;
 - 15 [~~(C)~~] (D) Reinstatement fee of \$100;
 - 16 [~~(D)~~] (E) Late fee of \$25 per day; and
 - 17 [~~(E)~~] (F) Criminal background check fee of \$35, or
 - 18 of an amount determined by the commissioner by
 - 19 rule pursuant to chapter 91, for each control
 - 20 person, executive officer, director, general
 - 21 partner, and manager; and
- 22 (2) Fees payable for each branch office of a mortgage
- 23 loan originator company:

- 1 (A) Initial application fee of \$250;
- 2 (B) Annual license renewal fee of \$100;
- 3 (C) Reinstatement fee of \$100; and
- 4 (D) Late fee of \$25 per day.

5 [~~(e)~~] (d) An exempt sponsoring mortgage loan originator
6 company shall pay the following fees to maintain a valid
7 registration in [~~the Nationwide Mortgage Licensing System and~~
8 ~~Registry:~~] NMLS:

- 9 (1) Initial registration fee of \$200;
- 10 (2) Annual registration renewal fee of \$150; and
- 11 (3) Late fee of \$25 per day.

12 [~~(d)~~] (e) A nonprofit organization shall pay the
13 following fees to maintain a valid registration as a nonprofit
14 organization in [~~the Nationwide Mortgage Licensing System and~~
15 ~~Registry:~~] NMLS:

- 16 (1) Initial registration fee of \$200;
- 17 (2) Annual registration renewal fee of \$150; and
- 18 (3) Late fee of \$25 per day.

19 (f) A mortgage servicer company shall pay the following
20 fees to maintain a valid mortgage loan originator company
21 license:

- 22 (1) Fees payable for a principal office of a mortgage
23 servicer company:

- 1 (A) Initial application fee of \$900;
- 2 (B) Annual license renewal fee of \$600;
- 3 (C) Reinstatement fee of \$100;
- 4 (D) Late fee of \$25 per day; and
- 5 (E) Criminal background check fee of \$35, or of an
- 6 amount determined by the commissioner by rule
- 7 pursuant to chapter 91, for each control
- 8 person, executive officer, director, general
- 9 partner, and managing member.

10 ~~[(e)]~~ (g) In addition to fees charged by ~~[the Nationwide~~
11 ~~Mortgage Licensing System,~~ NMLS, a licensee shall pay to the
12 commissioner a fee of ~~[\$50]~~ \$100 for each of the following
13 amendments to information provided to ~~[the Nationwide Mortgage~~
14 ~~Licensing System]~~ NMLS that require the review of the
15 commissioner:

- 16 (1) Change of physical location or mailing address for
- 17 branch office or principal place of business;
- 18 (2) Addition or deletion of a "d/b/a" assignment;
- 19 (3) Change of mortgage loan originator's sponsor;
- 20 (4) Change of qualified individual;
- 21 (5) Change of branch manager; and
- 22 (4) Change of mortgage loan originator company's legal
- 23 name.

1 The commissioner, upon a showing of good cause, may waive any
2 fee set forth in this subsection.

3 ~~[(f)]~~ (h) The fees established by this section are
4 nonrefundable and are in addition to any fees established and
5 charged by ~~[the Nationwide Mortgage Licensing System,]~~ NMLS,
6 an approved educational course provider, an approved
7 educational testing provider, a law enforcement agency for
8 fingerprints and background checks, or a credit reporting
9 agency used by ~~[the Nationwide Mortgage Licensing System.]~~
10 NMLS.

11 ~~[(g)]~~ (i) The commissioner may establish, by rule
12 pursuant to chapter 91, any other fees or charges necessary
13 for the administration of this chapter."

14 SECTION 23. Section 454F-23, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "~~[(f)]~~ **§454F-23** ~~[(f)]~~ **Payment of fees.** All fees collected
17 pursuant to section 454F-22, administrative fines, and other
18 charges collected pursuant to this chapter, except fees
19 designated for deposit into the mortgage loan recovery fund
20 shall be deposited into the compliance resolution fund
21 established pursuant to section 26-9(o) and shall be payable
22 through ~~[the Nationwide Mortgage Licensing System,]~~ NMLS, to
23 the extent allowed by ~~[the Nationwide Mortgage Licensing~~

1 ~~System.] NMLS.~~ Fees not eligible for payment through [~~the~~
2 ~~Nationwide Mortgage Licensing System]~~ NMLS shall be deposited
3 into a separate account within the compliance resolution fund
4 for use by the division."

5 SECTION 24. Section 454F-41, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[~~+~~§454F-41[~~+~~] **Mortgage loan recovery fund; use of**
8 **fund; fees.** (a) The commissioner shall establish and
9 maintain a fund that shall be known as the mortgage loan
10 recovery fund from which any person aggrieved by an act,
11 representation, transaction, or conduct of a licensee
12 involving fraud, misrepresentation, or deceit may recover by
13 order of the circuit court or district court of the county
14 where the violation occurred, an amount of not more than
15 \$25,000 per transaction, including court costs and fees as set
16 by law and reasonable attorney fees as determined by the
17 court, for damages sustained by the fraud, misrepresentation,
18 or deceit of a licensee.

19 (b) In addition to application fees and any fees
20 required by [~~the Nationwide Mortgage Licensing System,~~] NMLS,
21 a licensee shall pay to the division a mortgage loan recovery
22 fund fee as follows for deposit in the mortgage loan recovery
23 fund:

1 (1) The sum of \$300 for each principal office location
2 of a mortgage loan originator company[+] or mortgage
3 servicer company;

4 (2) The sum of \$250 for each branch office location of a
5 mortgage loan originator company; and

6 (3) The sum of \$200 for each mortgage loan originator.

7 (c) Upon application for renewal of a license under this
8 chapter, a licensee shall pay, in addition to the licensee's
9 license renewal fee and fees required by [~~the Nationwide~~
10 ~~Mortgage Licensing System,~~] NMLS, a mortgage loan recovery
11 fund fee as follows for deposit in the mortgage loan recovery
12 fund:

13 (1) The sum of \$200 for each principal office location
14 of a mortgage loan originator company[+] or a
15 mortgage servicer company;

16 (2) The sum of \$100 for each branch office location of a
17 mortgage loan originator company; and

18 (3) The sum of \$100 for each mortgage loan originator.

19 Mortgage loan recovery fees collected pursuant to this
20 subsection shall be refundable upon the denial of a license
21 renewal by the commissioner.

22 (d) When the mortgage loan recovery fund attains a
23 funding level of \$750,000, the commissioner may, by rule

1 adopted pursuant to chapter 91, adjust the fees generated by
2 renewals or may determine that payments made by renewing
3 licensees shall cease. If the funding level falls below
4 \$250,000 after the first five years of the establishment of
5 the fund, the commissioner may adjust the fees to a reasonable
6 level for the purpose of attaining a funding level of
7 \$750,000.

8 (e) The commissioner or the commissioner's designee, as
9 the manager of the mortgage loan recovery fund, shall be
10 authorized to expend moneys in the mortgage loan recovery fund
11 to:

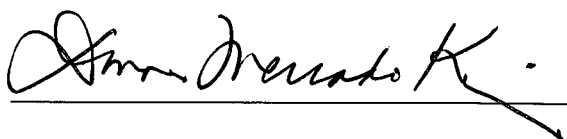
- 12 (1) Retain private legal counsel to represent the
13 commissioner or the division in any action that
14 involves or may result in payment from the mortgage
15 loan recovery fund;
- 16 (2) Retain a certified public accountant for accounting
17 and auditing of the mortgage loan recovery fund;
- 18 (3) Employ necessary personnel, not subject to chapter
19 76, to assist the commissioner in exercising the
20 commissioner's powers and duties with respect to the
21 mortgage loan recovery fund; and

1 (4) Retain a consultant to recover and collect any
2 payments from the mortgage loan recovery fund plus
3 interest from the judgment debtor."

4 SECTION 25. Statutory material to be repealed is
5 bracketed and stricken. New statutory material is
6 underscored.

7 SECTION 26. This Act shall take effect upon its
8 approval.

9

INTRODUCED BY: 

BY REQUEST

Report Title:

Mortgage Servicers; Registration; Fees; NMLS

Description:

Raises application and renewal fees for mortgage loan originators, mortgage loan originator companies, and exempt sponsoring mortgage loan originator companies; and establishes fees for mortgage servicer companies that conduct mortgage loan origination activities.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO MORTGAGE LOAN ORIGINATION.

PURPOSE: The purpose of this bill is to clarify licensure requirements; adjust fees for mortgage loan originators and mortgage loan originator companies; and establish fees for mortgage servicer companies that conduct mortgage loan origination activities.

Sections 1, 3, 5, 6, 8, 9, 11, 16, 17, 20, 21, and 23 only make conforming amendments, and update and clarify current provisions. Sections with substantive amendments follow.

Section 2:

- (1) Adds new definitions for "loan modification", "mortgage call report", "NMLS", and "principal place of business";
- (2) Amends the definitions of "branch manager" to include those responsible for the company's principal place of business; "branch office" to allow an out-of-state mortgage loan originator company to designate a branch office as its principal place of business; "exempt registered mortgage loan originator" to remove employees of insured depository institution subsidiaries from the definition; "licensee" to include certain mortgage servicer companies; "mortgage loan originator" to include an individual who makes three or more loans in a calendar year; and "mortgage servicer company" to require that they employ one or more individuals who conduct mortgage loan origination activity.

Section 4 adds mortgage servicer companies to those who may be presumed to control a

mortgage loan originator company, and limiting the presumption of control to those who have the right to vote 10% or more of a class of voting security or have the power to sell 10% or more of a class of voting securities of the company

Section 7 requires mortgage servicer companies to register with a valid unique identifier issued by NMLS and submit reports to NMLS as required.

Section 10 adds three hours of state law and rules to the educational requirement for mortgage loan originator licensure and limits the time an application can be submitted after completion of the pre-licensing education requirement to twelve months after which time the applicant must repeat the pre-licensing education requirements before submission of the application.

Section 12 requires that the annual continuing education requirements must be satisfied prior to requesting a license renewal, and establishes the minimum standards for license renewal for a mortgage servicer company.

Section 13 adds one hour of education on state laws and rules to the continuing education requirement for mortgage loan originators.

Section 14 mandates the Commissioner to require that mortgage servicer companies be licensed and registered through NMLS and authorizes the Commissioner to establish by rule requirements for mortgage servicer companies similar to those for mortgage loan originator companies.

Section 15 clarifies that a branch manager must be physically present in the branch office to oversee that office; requires that an application to relocate a mortgage loan

originator company must be submitted to the Commissioner at least thirty days prior to relocating the office; clarifies that a mortgage loan originator company that maintains its headquarters in Hawaii must designate a qualified individual as branch manager who is physically present in the company's principal place of business to oversee that office.

Section 18 statutorily raises the hourly fee for examiners that may be charged for examinations or investigations from \$40 to \$60, while retaining the Commissioner's authority to change this amount by rule.

Section 19 requires licensees to submit reports of condition to NMLS quarterly.

Section 22 raises the initial application and annual license renewal fees for mortgage loan originators by 20% and just under 17% respectively, requires a processing fee of \$35 for control persons of mortgage loan originator companies, specifies fees for sole proprietor mortgage loan originators, establishes fees for mortgage servicer companies to maintain a valid license, and raises the fee for changes to specified information provided to NMLS from \$50 to \$100.

Section 24 requires mortgage servicer companies to pay specified amounts to be deposited into the mortgage loan recovery fund for each principal office location for initial and renewal license applications.

MEANS:

Amend sections 412:9-501, 454F-1, 454F-1.5, 454F-1.6, 454F-1.7, 454F-2.5, 454F-3, 454F-4, 454F-4.9(a), 454F-6, 454F-7, 454F-8, 454F-9, 454F-10, 454F-10.5, 454F-11, 454F-14, 454F-15(i), 454F-16, 454F-17, 454F-20, 454F-22, 454F-23, and 454F-41, Hawaii Revised Statutes (HRS).

JUSTIFICATION:

As this new federal program on mortgage loan origination continues to evolve, the states must continue to make amendments to keep their laws current with the new federal law and guidelines. Consequently, NMLS changed its name from the Nationwide Mortgage Licensing System to NMLS to recognize the data base includes more licensees than the original mortgage loan originators.

Housekeeping changes are made to the law to integrate new licensees including operating subsidiaries of federal registered financial institutions and mortgage servicers who engage in mortgage origination.

The pre-license education and the continuing education are strengthened to include specific education on Hawaii's laws.

Fees, which the industry agreed to, need to be adjusted to reflect the additional regulatory requirements and increased supervision required for these licensees. The federal law has been further amended to require additional regulatory oversight for Privacy Laws, Bank Secrecy Act/Anti-Money Laundering Program laws, and Consumer Financial Protection Bureau guidance and regulations. The fee structure is adjusted by this bill to take into account the additional supervision, regulation, and examination of these licensees.

Impact on the public: As the Division of Financial Institutions (DFI) focuses supervisory, regulatory, and examination efforts on these licensees, DFI expects the industry to be more responsive and compliant with state and federal laws and in turn, consumers will be protected.

Impact on the department and other agencies:
None.

GENERAL FUND:

None.

OTHER FUNDS: Add funds to the Compliance Resolution Fund for use by DFI to administer the provisions of this chapter.

PPBS PROGRAM DESIGNATION: CCA 104.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.